

Robert S. Bacile
Ex Asst.

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
BOARD OF EXAMINERS OF MASTER PLUMBERS

IN THE MATTER OF THE SUSPENSION
OR REVOCATION OF THE LICENSE OF

WALTER D. WINNER, Jr.
License No. 36BI00934900

TO PRACTICE PLUMBING
IN THE STATE OF NEW JERSEY

Administrative Action

FINAL ORDER
OF DISCIPLINE

This matter was opened to the New Jersey State Board of Examiners of Master Plumbers ("Board") upon receipt of information which the Board has reviewed and upon which the following findings of fact and conclusions of law are made:

FINDINGS OF FACT

1. Walter D. Winner, Jr. ("respondent") is a licensed master plumber licensed in the State of New Jersey and has been a licensee at all times relevant hereto.
2. The Board received a complaint from consumer J.G. stating that he entered into a contract with respondent to remodel two bathrooms. J.G. issued respondent a check for two thousand, two hundred (\$2,200.00). According to J.G., respondent cashed the check, but never appeared to begin the work.
3. The Board sent a letter to respondent on December 4, 2009, requesting a response to the complaint received from consumer J.G.. The letter was sent to respondent's address of record with the Board, via regular and certified mail. The letter was also sent via United Parcel Service, 2nd Day. The letter sent via regular mail, was not returned to the Board office. The letter sent via certified mail was delivered to respondent's address of record, and signed for by respondent, on December 5, 2009¹. The letter sent via United Parcel Service, 2nd Day, was delivered to respondent's address of record on December 7, 2009. Respondent failed to provide the requested response to the consumer complaint.

¹ Although the certified card signed by respondent indicates a delivery date of 12/5/08, it was mailed by the Board on 12/4/09. Therefore, the actual date of delivery is 12/5/09.

CONCLUSIONS OF LAW

The above findings of fact provide grounds for disciplinary action against respondent's license, pursuant to N.J.S.A. 45:1-21(e), in that respondent has engaged in professional or occupational misconduct by failing to cooperate with an investigation of the Board in that he failed to respond to an inquiry to provide information in response to a complaint received concerning licensee conduct, in violation of N.J.A.C. 13:45C-1.3.

Based on the foregoing findings and conclusions, a Provisional Order of Discipline suspending respondent's license and imposing a civil penalty in the amount of two thousand five hundred dollars (\$2,500) was entered on June 23, 2011. Copies were served upon Respondent via regular and certified mail. The Provisional Order was subject to finalization by the Board at 5:00 p.m. on the thirtieth day following entry unless Respondent requested a modification or dismissal of the stated findings of fact and conclusions of law by setting forth in writing any and all reasons why said findings and conclusions should be modified or dismissed and submitting any and all documents or other written evidence supporting respondent's request for consideration and reasons therefor.

In reply to the Provisional Order of Discipline, respondent provided a letter admitting that he had a contract with J.G. and ordered materials for the job, but explained that he then suffered a personal crisis which distracted him from his professional responsibilities. Respondent apologized to the Board and to J.G. and suggested that he would return the payment to J.G.

The Board reviewed Respondent's submissions and determined that further proceedings were not necessary and that no material discrepancies had been raised. The Board was not persuaded that the submitted materials merited further consideration, as Respondent did not dispute the findings of fact or conclusions of law. Inasmuch as Respondent provided the information originally requested, the Board determined that suspension was no longer warranted. The Board further determined that Respondent's failure to respond to the original inquiry, thereby necessitating the filing of the Provisional Order of Discipline, and review of Respondent's subsequent reply almost two years later, warrants imposition of a civil penalty. Furthermore, the Board places a great emphasis on restitution to the consumer.

ACCORDINGLY, IT IS on this 15 day of ~~DECEMBER~~ 2011,

HEREBY ORDERED that:

1. Respondent is hereby ordered to pay restitution to consumer J.G. in the amount of two thousand two hundred dollars (\$2,200) within sixty (60) days hereof. Payment shall be in

the form of a certified check or money order mailed directly to consumer J.G. Respondent shall provide the Board with proof of payment to J.G. within ten (10) days of providing restitution.

2. Respondent is hereby assessed a civil penalty in the amount of two thousand five hundred dollars (\$2,500), the entire portion to be stayed so long as respondent provides restitution as ordered above. This civil penalty is assessed pursuant to N.J.S.A. 45:1-21(e), for failing to cooperate with an investigation of the Board by failing to provide information in response to the complaint received from consumer J.G., in violation of N.J.A.C. 13:45C-1.3. If respondent fails to pay the restitution above within 60 days and provide proof to the Board within 10 days thereof, then the \$2,500 civil penalty shall automatically become due and payable. In the event the civil penalty becomes due and owing, respondent's license to practice as a licensed master plumber in the state of New Jersey shall be suspended until such time as respondent pays the civil penalty. The civil penalty shall be paid by money order or certified check made out to the State of New Jersey and delivered to the Board of Examiners of Master Plumbers, 124 Halsey Street, Sixth Floor, Newark, NJ 07101. In the event respondent fails to make a timely payment, a certificate of debt shall also be filed. Payment of any civil penalty does not absolve respondent's obligation to pay restitution as ordered above.

NEW JERSEY STATE BOARD OF
EXAMINERS OF MASTER PLUMBERS

By: _____

Peter J. Voros

Peter Voros
Board Chairman